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7                   UNITED STATES DISTRICT COURT  
8                   WESTERN DISTRICT OF WASHINGTON  
9                   AT TACOMA

10 RUBEN E. SANCHEZ,  
11                   Plaintiff,  
12                 v.  
13 RUSTY SMITH, *et al.*,  
14                   Defendants.

Case No. C05-5426RJB

ORDER ADOPTING REPORT  
AND RECOMMENDATION,  
GRANTING DEFENDANTS  
MOTIONS FOR  
SUMMARY JUDGMENT AND  
DISMISSING CASE

15                 The Court, having reviewed plaintiff's complaint, the Report and Recommendation of Magistrate  
16 Judge J. Kelley Arnold, objections to the report and recommendation, and the remaining record, does  
17 hereby find and ORDER:

18                 (1) In his objections, plaintiff apparently contends that defendant Dr. Hogan saw plaintiff on  
19 December 9, 2003 and diagnosed "retinal break temporal" on that day. *See* Dkt. 109, at 4.  
20 Plaintiff apparently believes that there was a delay between the time Dr. Hogan saw him on  
21 December 9, 2003, and the diagnosis of retinal detachment by Dr. Berg on January 10,  
22 2004. The court has reviewed the record. The medical record to which plaintiff refers is  
23 included in Dkt. 87, Exh. C; and Dkt. 110, at 2. The record substantiates the declarations  
24 of the medical practitioners involved with plaintiff's case. Plaintiff saw Dr. Hogan on  
25 January 20, 2004, at 10:15 (not December 9, 2003) for postoperative followup, during  
26 which time Dr. Hogan noted "retinal break temporal;" and plaintiff was seen by Dr. Berg  
27 that same day. *Id.* Plaintiff's objections are without merit.

1                   (2) The court notes that plaintiff's Amended Complaint alleges only 42 U.S.C. § 1983 claims.  
2                   *See* Amended Complaint, Dkt. 12.

3                   (3) The Court adopts the Report and Recommendation. Defendant Hogan's Motion for  
4                   Summary Judgment (Dkt. 92); and the Department of Corrections defendants Smith,  
5                   Clinton, Brown, and Amaru's Motion for Summary Judgment (Dkt. 93) are **GRANTED**.

6                   (4) Plaintiff's motions for summary judgment (Dkt. 77, 86, and 87) are **DENIED**.

7                   (5) The Amended Complaint is **DISMISSED**.

8                   (6) The Clerk is directed to send copies of this Order to plaintiff and to the Hon. J. Kelley  
9                   Arnold.

10                  DATED this 26<sup>th</sup> day of December, 2006.

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13                  Robert J. Bryan  
14                  United States District Judge  
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